

AMENDED IN ASSEMBLY APRIL 17, 2006

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1924

Introduced by Assembly Member Koretz

February 1, 2006

An act to amend Section 3503 of, and to add Section 12008.7 to, the Fish and Game Code, relating to birds.

LEGISLATIVE COUNSEL'S DIGEST

AB 1924, as amended, Koretz. Bird nests and eggs: penalties.

(1) Existing law specifies that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by law. Existing law generally makes violations of provisions relating to fish and game a crime. Existing law provides that the punishment for the taking or possession of fully protected birds, as defined, and any animal on the list of endangered or threatened species, is a fine of not more than \$5,000 or imprisonment in the county jail for not more than one year, or both the fine and imprisonment. The existing federal Migratory Bird Treaty Act provides for the protection of migratory birds, as specified. Existing state law makes unlawful the taking or possession of any migratory nongame bird, or part of any migratory nongame bird, as designated in the Migratory Bird Treaty Act, except as specified.

This bill would make it unlawful to take, possess, or destroy the nest, aeries, or eggs of any fully protected, endangered, or threatened bird, as provided, or any philopatric bird, *as defined*, protected by the Migratory Bird Treaty Act, *at any time*, unless the nest taken,

possessed, or destroyed had been previously designated by the ~~county fish and game warden~~ *Department of Fish and Game* to have been *permanently* abandoned. The bill would make those violations, *and violations of the general provision making it unlawful to take, possess, or destroy the nest or eggs of any bird, as modified by the bill to delete the requirement that the taking, possession, or destruction be done needlessly*, punishable by a fine of \$15,000 for the first violation and \$35,000 for each subsequent violation, imprisonment in the county jail for a period not to exceed one year, or both, and the revocation of any commercial and sport fishing licenses issued by the department for a period not to exceed 10 years. This bill would require the ~~Department of Fish and Game~~ *department* to make available to the public a centralized database of convictions of violations of these provisions, as specified. Because this bill would create new crimes, it would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3503 of the Fish and Game Code is
2 amended to read:
3 3503. (a) It is unlawful to take, possess, or ~~needlessly~~ destroy
4 the nest or eggs of any bird, except as otherwise provided by this
5 code or any regulation made pursuant to this code.
6 (b) (1) It is unlawful to ~~intentionally or willfully~~ take, possess,
7 or destroy the nest, aeries, or eggs of any philopatric bird that is
8 protected by the Migratory Bird Treaty Act, any bird listed
9 pursuant to subdivision (b) of Section 3511, or any bird listed as
10 an endangered or threatened species pursuant to Section 2070 at
11 any time, except if the nest taken, possessed, or destroyed had
12 been previously designated by the ~~county fish and game warden~~
13 *department* to have been *permanently* abandoned or as otherwise

1 provided by this code or any regulation made pursuant to this
2 code.

3 (2) *As used in this section, “philopatric bird” means any bird*
4 *that returns to its natal nest site or colony in the course of its*
5 *migration or breeding and feeding cycles.*

6 (c) (1) *This section does not apply to any electric utility*
7 *company acting in the course of providing or restoring utility*
8 *service.*

9 (2) *Nothing in this section shall be construed to prevent any*
10 *organization from engaging in conservation and preservation of*
11 *wild game if the activity has been permitted by the United States*
12 *Fish and Wildlife Service or the department.*

13 ~~(e)~~

14 (d) The department shall make available to the public on its
15 Internet Web site, from the information available to it pursuant to
16 Section 879, a centralized database of convictions of violations
17 of subdivision (b), including the name of the violator, the date of
18 the violation, the location of the violation, the fine collected, and
19 any other information that the department determines is
20 appropriate, taking into account the public’s right to know and
21 the violator’s privacy rights, if any.

22 SEC. 2. Section 12008.7 is added to the Fish and Game Code,
23 to read:

24 12008.7. (a) Notwithstanding Sections 12000, 12008, and
25 12010, the punishment for a violation ~~of subdivision (b)~~ of
26 Section 3503 is a fine of fifteen thousand dollars (\$15,000) for
27 the first violation, and thirty-five thousand dollars (\$35,000) for
28 each subsequent violation, imprisonment in the county jail for a
29 period not to exceed one year, or both that fine and
30 imprisonment. In addition, the department may revoke any
31 commercial and sport fishing license of a person convicted of
32 that violation for a period not to exceed 10 years.

33 (b) *After deduction of any administrative court costs, the*
34 *department shall receive all fines and penalties collected*
35 *pursuant to this section.*

36 SEC. 3. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the

- 1 penalty for a crime or infraction, within the meaning of Section
- 2 17556 of the Government Code, or changes the definition of a
- 3 crime within the meaning of Section 6 of Article XIII B of the
- 4 California Constitution.

O